

J-F 249-92

G. R. S. IX-5]

*Previous references.*

191

1892-3

File No. 13-1892

Serial Nos. 1-6

( Cts. )

*Later references.*

## GENERAL AND REVENUE SECRETARIAT.

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*Serial Nos. 1-6*

*in Part B for Oct-1893.*

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SUBJECT.

Rule regarding the issue of summons to  
government ~~officers~~ servants.

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*Indexed by*  
*Countermarked*  
*W.D.*

①  
 OF THE  
 4389  
 31 JUL 1892  
 1892  
 L-34-92  
 DEPT. OF THE  
 JAPAN DISTRICT

From

The Dy Commissioner  
Japan District

To

The Chief Secretary to the Dewan  
of Mysore.

Dated 27

Despatched 28

Received

October 1892

Enclosures No. none

General No. 491

No. Secy.

In reply to

SUBJECT

Under the circumstances re-  
 -presented requests that Govern-  
 -ment will give a general  
 ruling that builders may  
 be summoned only through the  
 Dy Commissioner to enable  
 him to make efficient arrange-  
 -ments for the discharge  
 of work &c.

Jud. Br. Mr. 30/10/92

References (to be entered only in the  
Dewan's Office).

There is no provision in the Civil  
 Pro Code requiring that summonses  
 should be sent thro' Secy. of  
 Depts. Under circular order  
 No 62, Courts are enjoined to

have the summons issued  
 as an official in time to  
 enable him communicate with  
 his official superior, so that the  
 latter may be enabled to make  
 the such arrangements as may be  
 necessary for the performance of the  
 duties of the Dy Commissioner during  
 his absence.

~~Subd for order~~ Copy of the Dy Commr's

letter may be sent to the Chief Court  
 & it may be asked to remind  
 Courts of the instructions conveyed  
 in the circular referred to above  
 JWH: Copy is put up for reference

Subd for order.

10.11.92

Subd for Mr. J. Derwent  
 orders. Perhaps an  
 order may be called  
 for for the enforcement  
 from standing orders in  
 this case.

It does not appear from  
 Mr. Derwent's letter that the am-  
 was not received at Mysore in suffi-  
 time to enable him to communicate  
 with a view to a copy-  
 of another for the purpose of his duty  
 has also. If the provisions of the  
 the Regd. of 27 July/84 have been

not complied with. If it cannot be found with. 27/10/92

①

491  
seq.

6813-1892-1

Deputy Commissioner's Office,  
Hapan District.

Dated Hapan 27 October 1892.

From,

P. W. Purnima Esq.  
Deputy Commissioner  
Hapan District.

To

The Chief Secretary to the  
Government of Mysore  
Bangalore.

Sir,

I have the honor to state  
that Subbaroyalri Kaidar Amildar  
of the Holé Narayana Taluk re-  
ports in his No 189 Dated 22<sup>nd</sup> —  
Instant that he was served with  
a summons directing him to attend  
the District Judge's Court Mysore  
on the 27<sup>th</sup> Instant to give evidence  
in Civil Suit No 28 on the file of  
that Court, and that he has there-  
fore handed over charge of the  
Taluk to the Sheristidar and left  
the

the station.

2 — I beg to bring to the notice of Government the fact that such processes if served direct on the Amildars concerned instead of through the Head of the District to whom such officers are subordinate, a good deal of difficulty would arise in arranging for the efficient discharge of work during such officers' absence on important occasions.

3 — I therefore request that Government will issue a general ruling that Amildars may be summoned only through the Deputy Commissioner. —

I have the honor to be,  
Sir,

Your most obedient servant;

*M. B. B. B. B. B.*

Deputy Commissioner  
Hapur District

*[Signature]*

2

189 .

From

The Chief Secretary <sup>(2)</sup>  
to the Dewan of Mysore.

To

The Dy Commr  
Hassan.

Dated 28/12/92

Despatched

Received

Enclosures No.

General No. 77  
No. D.H.O.

Inviting the attention of  
the Dy Commr to Circular  
letter no 62 of 24<sup>th</sup> July 1884 of  
the Chief Court regarding  
the issue of a Summons  
to any person in the Service  
of Government.

References to be marked.

24  
6413-1892-2

X

No 77  
DHO

29/12/92

The Deputy Commr.  
Haran Dt.

Sir,

With reference to your letter  
No 491 dated 27 October 1882  
stating that the Amildar of  
Hole Narsipur Taluk ~~was~~  
~~sent~~ gave over charge of the  
Taluk without previously obtaining  
your orders and proceeded to  
appear before the  
District Judge's Court in accordance  
with a summons of that Court  
and suggesting that summons  
to Amildars be always served  
through the District Commissioners.

x  
I invite your attention  
to the Circular letter  
(Civil) ~~of~~ of the Chief  
Court No 62 dated  
24 July 1884, and to

I am directed to observe  
that it does not appear from  
your letter that <sup>in this instance</sup> the Amildar  
was not served with  
summons in sufficient time  
to enable him to communicate  
with you, with a view to  
arrangements being made  
for the performance of his

dictors during his absence.

I am to add that if  
the provisions of the law and  
the Rule of Practice have  
been duly complied with, by the ft at signed the summons,  
the action of the Court is in causing the same to be served  
on the summons direct-  
the Amildar cannot be  
found fault with.

I have recd

Chief Secretary

ATL

28/12/92

Sent  
[Signature]

28/12/92  
[Faint handwritten notes]

In the Chief Court of Mysore  
Civil Side



(2)

Sir: Letter No 2, D, 24<sup>th</sup> July 1884

To

The Judges of all Civil Courts.

Sir,

I am directed to state that whenever it is found necessary to issue a Summons to any person in the service of Government, or if any Railway Company, the Court issuing the Summons shall, having regard to the provisions of Sections 69 and 167 Civil Procedure Code, fix such a reasonable time for compliance with the Summons as would admit of the person summoned, communicating with his official Superiors, with a view to arrangements being made for the performance of his duties during his absence.

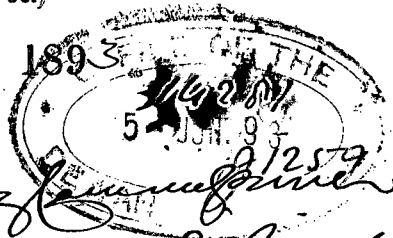
I have &c

(Signed) S. Hanajee Row,  
Registrar

645 13-(1892-3)

From

The District Officer  
Hosang Street



To

The Chief Secretary to the Dewan  
of Mysore.

Dated 3<sup>rd</sup> June 1893.

Despatched

Received

Enclosures No.

General No. 1162  
No. 8

In reply to

SUBJECT.

Reporting that as per Summons  
from Mysore District Court,  
the Amildar of the Channarayana  
Taluk, has proceeded to  
Mysore handing over charge  
of the Taluk to the Sheristadar,  
and requesting that a definite  
Ruling may be prescribed  
on the subject with a view to  
make the departmental ar-  
rangements during the Amil-  
dar's absence etc.

J. M. N.  
576

References (to be entered only in the  
Dewan's Office).

Subd into a draft-

16.5.93

No 1162  
5

3

Deputy Commissioner's Office,  
Hassan District.

Dated, Hassan, 3<sup>rd</sup> June 1893.

From,

P. N. Purnaiya Esq  
Deputy Commissioner,  
Hassan District.

To

The Chief Secretary to the  
Government of Mysore,  
Bangalore.

Sir,

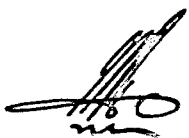
I have the honor to report  
that a summons dated 3<sup>rd</sup> May last,  
from the District Court, Mysore,  
has reached the Amildar of Chenna-  
royapatna Taluk, on the 27<sup>th</sup> May  
asking him to appear before the  
Court on the 31<sup>st</sup> of that month.  
The Amildar has proceeded to  
Mysore according to the summons  
handing over charge to the Sheristadar  
of that Taluk simply reporting the  
matter to me. I beg to observe that  
this being the collection season, and  
also

also the month of the last Klist, the absence of the Amildar on the closing days of the month has proved very detrimental to work at the close of the year. I have pointed out to the Munshi the inconvenience caused by this call without sufficient notice and beg to bring the instance again to the notice of Government with a view of at least laying down a rule that two weeks clear intimation should always be given by ~~governments~~ for the necessary departmental arrangements being made for work. There will be no magistrate in the Taluk during his absence.

2- His return has not been yet reported. —

I have the honor to be,  
Sir,  
Your most obedient servant,  
M. M. M. M.

Deputy Commissioner  
Kapurthala District



No. 1092  
J. 67  
16-7-93  
encl.

GOVERNMENT OF MYSORE

(4)

16  
Bts 13-1892-4

The Registrar of the  
Chief Court of Mysore.  
Bangalore

Sir,

I am directed to forward  
copy of letter No. 1162, dated  
3<sup>rd</sup> June 1893, from the Dy.  
Commissioner, Hassan District,  
bringing to notice that the  
Amildar of Chennarayana  
Taluk was, on the 27<sup>th</sup> May  
last, served with a summons  
from the Munsiff's Court, Mysore,  
requiring him to appear  
before it on the 31<sup>st</sup> idem,  
that the Amildar proceeded  
to Mysore according to the  
summons, handing over  
charge to the Sheristadar  
of

of the Taluq. Simply reporting  
the matter to the Dy Commr.,  
and that the absence of the  
Amildar has proved very  
detrimental to work, and  
suggesting that a rule may  
be laid down that two  
weeks clear previous inti-  
mation should always  
be given by Courts, when  
Amildars or other such  
Officers are summoned,  
~~in order~~ that arrangements  
may be made for work  
during their absence.

The Circular of the Chief  
Court, Civil Side, No 62 dated  
24<sup>th</sup> July/04, no doubt directs  
that a Court issuing a Sum-  
mons to any person in the  
Service of Govt. Should fix  
such a reasonable time  
for compliance therewith

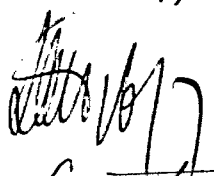
as would admit of the person summoned communicating with his official superior with a view to arrangements being made for the performance of his duties during his absence, but what is reasonable time, has nowhere been defined, and is, in each case, <sup>dependent on</sup> left to the caprice of the ~~preceding~~ <sup>chief ministerial</sup> judge of

As Henry B. the summons is typed by the presiding judge & it often happens that the judge has time to attend to these minutes & give a closure.

Official of the Court } To obviate the inconvenience, which such a system is liable to cause, I am to enquire whether the judges of the Chief Court may ~~cannot~~, as suggested, by the Dy Commr, issue a Rule of Practice, requiring a clear interval of 15 days between the date of service of summons and the date of

of hearing to be given, if  
not in the case of all sub-  
-ordinate Govt. Officials,  
at least in the case of  
Amildars, Dy Amildars,  
Assts or Dy Commrs or other  
officers holding similar  
responsible office under  
Govt, when they are summoned,  
so as to enable them to com-  
-municate with their official  
Superiors and get necessary  
arrangements made for  
the performance of their  
work during their absence.

I have &c

  
Chief Secretary.



J

to be for a period

Johnsons discretion  
 in such matters. but  
 because such matters  
 have necessarily  
 (from want of time on  
 their part to attend  
 to these little matters)  
 to leave them to the  
 Court officials, & these  
 small men often like  
 to lord it over 'Amidans'.  
 Subd for Spg Demands  
 orders.

Oct 7/10

Mrs. [Signature]  
29/9

*[Handwritten notes and signatures are visible on the page.]*

Submitted.

R. P. No 48 of 30/5/83 prescribes a separate form of summons for summoning records in the custody of Public Officers & directs that a letter be addressed intimating that the attendance of a ministerial officer to produce the records is all that is required. The nature of the document which the Amildar was summoned to produce is not stated.

The Judge allows sufficient time when posting or adjourning a case, but the actual service of summons is often delayed.

1883. 21276  
8-650  
From The Registrar of the  
Chief Court, Mysore  
To Chief  
The Secretary to the Dewan  
of Mysore.

Dated 25<sup>th</sup> Sept/93  
Despatched 26<sup>th</sup> —

Received

Enclosures No.

General No. 1319 } 188 —8  
No. 60 }

States that the judges do not consider it desirable to make any rule as suggested by the Dy Commr. Hapan regarding a clear interval of 15 days to be given between the date of service of summons and the date of hearing and that another form of summons will be prescribed by this Court.

9. Ref & Civil Propode  
Mun 24/9

Submitted.

A rule allowing 15 days' time between the date of the service of the summons and the date of the hearing would be very useful.

yes not so much  
much because 29/9  
Judges may not  
be trusted to exercise a

In this case the summons is dated 3<sup>rd</sup> May, but was served on 27<sup>th</sup> Idem, only 3 days before the date of hearing. It is a matter for consideration, whether, when the notice is so short the Public Officer, <sup>summons</sup> should not have the liberty of applying for an adjournment if the nature of the work he is engaged in at the time, requires that in the interests of the Public Service, he should not hurriedly quit it. The Admin<sup>r</sup> of Justice will not suffer if such liberty is given to Executive Offrs, in instances in which such adj<sup>ts</sup> may be made are very rare, & in such rare cases adj<sup>ts</sup> may without inconvenience be granted. The interests of the Public Service & the prestige of Executive Officers seem to require that when suff<sup>t</sup> time is not allowed, the Offr summoned shall have a right to claim an adjournment. Recently, a Deputy Inspector of Schools who is a graded Officer in the Educational Dept<sup>t</sup>, was tried summarily & fined 20s. by the M<sup>r</sup> of Madras for not appearing on the date fixed, though he had made an appl<sup>n</sup> for adjournment & sent a telegram to the M<sup>r</sup>. Such an action will tend to lower the Executive Offrs in the estimation of those with whom they have to deal, but there is nothing at present to protect them against it.

27/5/10

Bangalore 25-September 1893.

(5)

N. 1319  
60

From

8/5

13-1892

The Registrar of the  
Chief Court of Mysore.

The Chief Secretary to the  
Dewan of Mysore

Sir,

I am directed to acknowledge  
the receipt of your N. <sup>1092</sup>/<sub>67</sub> of the 16<sup>th</sup> July last,  
and to state in regard to the case reported to  
Government by the Deputy Commissioner of  
Hassan, that the Amildar was summoned  
by the Munsiff of Mysore, to produce certain  
documents only, that the personal attendance  
of the witness was not necessary, that the Sum-  
mons was issued according to form N. 125  
published in Schedule 4, of the Code of Civil  
Procedure, and that as the said form No 125  
applies alike to witnesses who are required  
to give evidence and those who are required  
to produce documents alone, and is likely  
to cause confusion, this Court has resolved  
to prescribe another form of Summons,  
when the production of documents is all  
that is required by a Court.

2.

Adverting to the suggestion

which has been made by the Deputy Commis-

sioner, I am to state that the Judges do

not consider it desirable to make any

hard

hard and fast rule, that the rule which is more  
in force, and which gives a discretion to  
Judges, seems to have been judiciously in-  
forced, and that no necessity seems to  
have arisen for modifying the rule.

I have the honor to be,  
Sir,

Your Most Obedient Servant,  
*Wm. A. R. R. R.*

Registrar

11

sl 6  
645 13-1892

J. 690 No 7011  
of 9-10-93 J. 691  
The Registrar of the  
Chief Court

Sir,

I am directed to  
acknowledge the receipt  
of your letter of the <sup>25<sup>th</sup></sup> 16<sup>th</sup>  
<sup>September</sup> 1893 n<sup>o</sup> ~~1092~~ <sup>1319</sup> and  
~~964~~ <sup>60</sup>  
to state that the Govern-  
-ment entertain no doubt  
that, as a rule, the Courts  
allow <sup>whenever</sup> sufficient time  
to witnesses to comply  
with summonses, <sup>upward of 171</sup> but  
in the case under re-  
-ference the time al-  
-lowed (2 days) was very  
short and it does not  
appear that the instruc-  
-tions conveyed in Rule

of Practice n<sup>o</sup>. 48 dated  
30<sup>th</sup> May 1883 and cir-  
-cular letter n<sup>o</sup>. 62 dated  
24<sup>th</sup> July 1884 have been  
followed. In the former,  
a separate form of  
summons is prescribed  
when the production  
of official papers or  
other public documents  
by a Public Officer is  
required in any case  
and it is directed that  
a letter be addressed to  
the Officer concerned in-  
-terminating that the at-  
-tendance of a ministerial

Officer to produce the records is all that is required. In the latter, it is directed that such reasonable time shall be fixed for compliance with the summons as would admit of the person summoned communicating with his official superiors with a view to arrangements being made for the performance of his duties during his absence.

21/3/02  
I have & co  
Chief Secretary